Supreme Court, U.S.
FILED

No. 98-1746 JAN 13 199

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IN THE

Supreme Court of the United States

October Term, 1998

PAUL JOSEPH PETTUS

v.

THE UNITED STATES

On Petition For Writ of Certiorari

Appealed from the Eleventh Court

PETITION FOR WRIT OF CERTIORARI

Paul Joseph Pettus
Appellant/Petitioner
381 Moss Rock Circle
Warrior Alabama 35180
(205) 647-1078

1998

FEDERAL QUESTIONS

1. Does a Federal law enforcement officer, not clothed with the authority of Law, being a proper due process, or statutory, warrant, and under the guise of serving a purported subpeona upon a party other than the appellant, and not produced, have the authority to break and enter upon the property of appellant, search said property, seize property not listed or described on any warrant, and arrest the appellant?

2. Does a Federal law enforecement officer, not clothed with the authority of a proper due process, or statutory warrant, have the authority to arrest anyone who is demanding to see and for the officer to produce, the proper due process, or statutory, warrant giving him the authority to break and enter, search and seize and arrest?

3. Is said officer, not clothed with the authority of a proper due process, or statutory, warrant, and who without such authority of said warrant; breaks and enters upon the property of appellant, searches the property, and seizes property not listed or described upon any warrant, and arrest and assaults one who demands to see such authority warrant, acting within the scope of his authority and duty of his office?

4. Does said Federal officer, who is not clothed with authority of a proper due process, or statutory, warrant have the authority to make a crime out of, or make a criminal out of appellant for asserting and demanding his constitutionally secured rights?

5. Do the lower Federal courts have the authority or duty to "over rule" the Constitution for the United States of America, the Law of the Land, when the same has been asserted, on the record, by the Appellant in the said courts?

LIST OF CONCERNED PARTIES

1. 'We the People,' in general
2. Paul Joseph Pettus, Appellant, in particular
3. Steve Brannan, F.B.I. Agent, Appellee
4. Elizabeth Todd Campbell, Federal Magistrate/Judge
5. Caryl P. Privett, U.S. Attorney
6. Michael V. Rasmussen, Assistant U.S. Attorney
7. Eleventh Circuit Court of Appeals
8. Janet Reno, Attorney General of the UNITED STATES

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TABLE OF AUTHORITIES

THE LAW OF THE LAND

The Constitution for the United States of America
Article Four and Five in Amendment 2, 3, 4

And Whereas the Decisions of the Supreme Court for the United State of America are also the Law of the Land.
Case Law:

Bank of Columbia v. Oakley, 4 Wheat. 235 (1819) 3

Blackledge v. Perry, 417 U.S. 21, 40 L.Ed. 2d 628, 94 S.Ct. 2098 (1974) 4

Den ex dem. Murray v. Hoboken Land & Improv. Co., 18 How. 276 (1856) 3

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Fairbanks v. United States, 181 U.S. 283 (1901) 5

Gould v. United States, 255 U.S., 298, 304 (1921) 3

Grau v. United States, 287 U.S. 124 (1932) 3

Marbury v. Madison, 1 Cr. 137, 178 (1803) 5

Marison v. United State, CA DC, 262 F.2d 499 (1958) 2

Muscrat v. United States, 219 U.S. 346 (1911) 5

Pollock v. Farmer's Loan & Trust Co., 157 U.S. 429, 554 (1895) 5

Rochis v. California, 342 U.S. 165, 96 L.Ed. 183, 72 S.Ct. 205 (1952) 4, 5

Smith v. Maryland, 18 How. 71, 76 (1855) 3

United States v. Dickson, 15 Pet. 141, 162 (1841) 5

United States v. Freund, 290 Fed. 411 (1923) 5

Van Horne v. Dorance, 2 Dall. 304 (1795) 5

Statutes:

Alabama Code 1975 § 15-10-7 Arrest by private persons 4

18 U.S.C. 111 Impeeding and Interfering with Certain Officers 1, 2, 4

JURISDICTION

This courts jurisdiction is invoked pursuant to Violations of the Original Constitution for the united States of America found at Article IV and Article V in Amendment, in particular. And all of the decisions of the Lower Federal Courts on these federal questions have been contrary to well established Law as set forth by the Constitution at Article IV and V in Amendment and should be settled by this court because their decisions conflict with well established Law and relevant decisions of this court concerning this law. This situation calls for the supervisory power exercised by this court.

In the
SUPREME COURT
FOR
THE UNITED STATES OF AMERICA

PAUL JOSEPH PETTUS APPELLANT vs. THE UNITED STATES APPELLEE	CAUSE NUMBER PETITION FOR THE WRIT OF CERTIORARI

CAUSE

Comes now Paul Joesph Petus, appellant, and petitions this Honorable Court for the Write of Certiorari and here disposes and states the following cause for said Writ to Issue, to wit:

one. On January 8th, 1996, Steve Brannan, an agent of the F.B.I. did break the close of a locked gate, at 275 North Center Street, Birmingham, Alabama and then and there searched and seized property, and then assaulted and arrest appellant for demanding to see, and for the said agent to produce, a proper Due Process Warrant authorizing the agant to perform the acts and actions he had perpetuated upon the property and the body of the Appellant.

two. Steve Brannan, then under color of office, authority and pretext of law, arrested Appellant for 'False Imprisonment' and changed the charge on the indictment to 'Obstructing and officer in the performance of His Duties.'

three. Steve Branna then, by his actions, caused, and did bring the weight and might of the Federal Government court system to bare upon the Appellant, causing the prosecution and conviction of Appellant in a Federal Magistrate Court after the said Appellant had claimed and asserted, on and for the record, his secured Rights under the Constitution for the United States of America in any and all proceedings.

four. The lower courts refused to rule on the constitutional questions before the courts, and convicted and upheld the conviction upon appeal to the Eleventh Circuit.

Therefore: Appellant turns to the Highest Court of Last Resort to hear the Constitutional Questions presented, for a Ruling from this Honorable Court.

ARGUMENT IN APPELLANT'S CAUSE

one. The Fourth and Fifth Article in Amendment to the Constitution for the united States of America are very explicit upon the subject of search and seizure and due process of law. Containing how said warrants are to be issued forth and what is to be contained in said warrant, as to description and location of the property to be searched and what is to be seized and what person or persons are to be arrested. An officer acting without the sanction or authority of this cover of Law is outside of, and not within, the scope of his official duty. The service of a purported subpoena does not clothe the officer with the same authority as a proper warrant, and does not grant enlarged powers, to break and enter, or search and seize, to the officer charged with serving said purported subpoena. To wit:

"We note the attempt of the Government here, as in some other cases to equate the powers of an officer who has a warrant with those of one who does not have a warrant. Those powers are not the same and have never been in Anglo-American jurisprudence. ... The powers of a officer with a warrant can not be equated with his power when he has no warrant."
Morrison v. U.S., CA DC, 262 F.2d 449 (1958)

It is a truth and a fact that Agent Steve Brannan has admitted and confessed, on the record, that he was not clothed with the proper due process warrant necessary for him to perform the acts that he unlawfully perpetuated upon the property and the person of the Appellant. And further there are volumes of court decisions, too numerous to quote here, that make it necessary for an officer to be clothed with authority of Law, being a proper due process warrant, in order for him to lawfully break and enter, search, seize and arrest. The service of a purported subpoena is not equated with a proper due process warrant and this he did not have. And further: One not clothed with the proper authority of Law, and who acts outside of his lawful authority, can not be in the performance of his lawful duty and can not charge someone with 'Obstruction of the performance of his duty.'

All of which is against well established Law.

two. Concerning the Fourth Amendment; This court has said:

"The security afforded by this amendment against unreasonable search and seizure applies solely to governmental action."
Smith v. Maryland, 18 How. 71, 76 (1855) and;

since this was an action of the government this Court has said:

"The amendment should be liberally construed to preserve the citizen's right to immunity from unreasonable search."
Gouled v. United States, 255 U.S., 298, 304 (1921) see also:
Grau v. United States, 287 U.S. 124 (1932)

Concerning the Fifth Amendment this Court has said:

"The words 'due process of law' were undoubtedly intended to convey the same meaning as the words 'by the law of the land' in Magna Carta."
Den ex dem. Murray v. Hoboken Land & Improv. Co., 18 How. 276 (1856) And further:

"The good sense of mankind has at length settled down to this: that they were intended to secure the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice."
Bank of Columbia v. Oakley, 4 Wheat. 235 (1819)

Therefore: An agent of Appellee has admitted and confessed that he was not clothed with the authority of Law that would have allowed his acts and given him the proper authority to act in the manner which he did.

All of which were against well established Law.

three. Appellant did constantly, during this unlawful action, demand to see, and for the agent to produce, the lawful warrant which authorized him to act in such a manner. When appellant was informed by agent Brannan that he had no such warrant (Admission and Confession), Appellant placed him under 'citizens arrest', and action authorized by Alabama law, at this point agent Brannan assaulted the appellant with a chemical agent and placed appellant under arrest for 'False Imprisonment' and then changed the charge after the incarceration and charged the Appellant with 'Obstruction of an officer in the performance of his duties.' And it is well understood that a man can not be arrested for one charge, and tried for another.

This court has said:

" A change in the Indictment deprives the court of the power of proceeding to try the accused."
Ex parte Bain, 121 U.S. 1, 12 (1887)

Thus further depriving the Appellant of Due Process of Law. And also, attempts to make a criminal act out of what, in reality, is an assertion of Constitutionally secured rights and what is also allowed by Alabama statutory law is denial of due process and abuse of office under color of law.

And further:.....Due Process clause of the Constitution protects against prosecutorial or judicial action intended as a penalty for the assertion or exercise of constitutional rights.
See:
Blackledge v. Perry, 417 U.S. 21, 40 L.Ed 2d. 628, 94 S.Ct. 2098 (1974) and:

For the Government to punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort. For the cornerstone of due process is the prevention of abusive government power.

Therefore:

"Substantive due process refers to certain actions that the

government may not engage in, no matter how many procedural safeguards it employs."
Rochin v. California, 342 U.S. 165, 96 L.Ed. 183, 72 S.Ct. 205 (1952)

It is clearly evident that the Appellant was victimized and criminalized for exercising his constitutionally secured rights and doing exactly what the law allowed him to do.

In clear violation of well establish d Law.

four. The Appellant was brought before the Federal court system and immediately asserted and secured his protected and inviolate constitutional rights, in and on the record, the lower courts have consistently ignored, over-ruled and set aside these rights and ruled in favor of some rule or statute, thereby negating the duty of the courts and abrogating the 'law of the land' in an attempt to set it aside as so much rubbish. This Court has ruled, and its only function is, to uphold the law of the land as is stated by this court:

"The Constitution imposes upon the judicial department the solemn duty of interpreting the laws; and however disagreeable that duty may be, in cases where it's own judgment shall differ from that of other high functionaries, it is not at liberty to surrender or to waive it."
United States v. Dickson, 15 Pet. 141, 162 (1841) see also:
Muscrat v. United States, 219 U.S. 346 (1911) and:
United States v. Freund, 290 Fed. 411 (1923) and further:

If two laws conflict with each other, the courts must decide on the operation of each. *"This is the very essence of judicial duty. If, then, the courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the legislature, the Constitution, and not such ordinary act, must govern the case to which they both apply."*
Van Horne v. Dorance, 2 Dall. 304 (1795)
Marbury v. Madison, 1 Cr. 137, 178 (1803) see also:
Pollock v. Farmer's Loan & Trust Co., 157 U.S. 429, 554 (1895)
Fairbank v. United States, 181 U.S. 283 (1901)

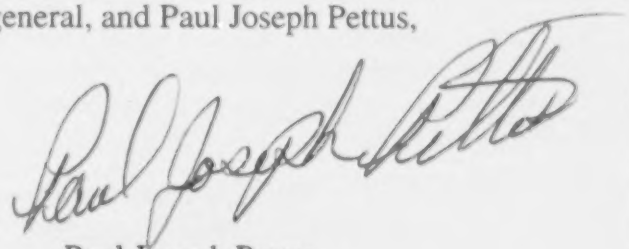
Therefore the lower Federal Courts have dismissed their sacred duty to apply the Constitution over any ordinary statute.

All of which is in violation of well established Law.

These are the viable issues in the case before this Honorable Court, but all issues in the lower courts are not abandoned and are brought forth with this petition.

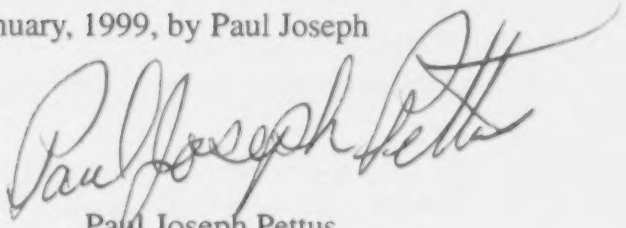
PRAYER FOR RELIEF

On the grounds presented, and the ones left to the discretion of this Honorable Court, your petitioner respectfully request that this contrived conviction be set aside and remanded to the lower courts for correction of this miscarriage of justice In the name of 'We the People' in general, and Paul Joseph Pettus, the Appellant, in particular.



Paul Joseph Pettus
Appellant/ Petitioner

Done on this the 9th day of January, 1999, by Paul Joseph Pettus, Appellant/Petitioner.



Paul Joseph Pettus
Appellant/ Petitioner
381 Moss Rock Circle
Warrior, Alabama 35180

In The
SUPREME COURT
FOR
THE UNITED STATES OF AMERICA

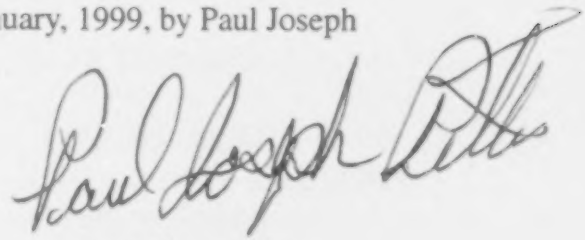
PAUL JOSEPH PETTUS APPELLANT/PETITIONER VS. THE UNITED STATES APPELLEE	CAUSE NUMBER PETITION FOR THE WRIT OF RECORDARI FACIAS

PETITION FOR THE WRIT OF RECORDARI FACIAS

Upon the Petition of Paul Joseph Pettus. Who respectfully request and petitions unto Your Honors that: The true and complete record from the Jefferson County, Alabama Sheriff's Department Arrest Record of January 8th, 1996 concerning Paul Joseph Pettus and the U.S. DISTRICT COURT OF ALABAMA, NORTHERN DISTRICT, SOUTHERN DIVISION, CASE NUMBER MAG-96-006, CR-96-S-0021-S, CR-96TMP-21-S, and United States Court of Appeals, Eleventh Circuit, Appeal Number 97-6048, be brought before this Honorable Court For the Reasons: Full Disclosure before this Court of the Contrived criminal arrest, and convictions, and proof positive of the timely assertion of Constitutional Rights before the lower courts, and the total disregard of these timely assertions. And the true Admissions and Confessions of the Agent of the United States, Steve Brannan, that He was not clothed with the proper authority of Law giving him the power to act in the manner in which he did, ie. breaking and entering, searching and seizing and arresting under the ,color of office and Law, without the cover or authority of Law, being a proper due process warrant. Thus making the acts of the Agent of the United States, and the acts of the lower courts……Contrary to and Against Well Established Law.

Thank you for the consideration of your Petitioner in this matter.

Done on this the 9th day of January, 1999, by Paul Joseph Pettus, Appellant/Petitioner.

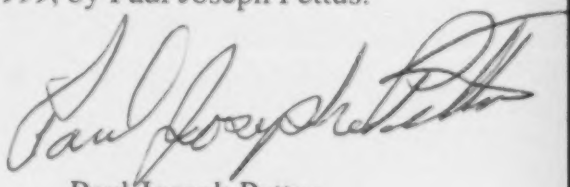


Paul Joseph Pettus
Appellant/ Petitioner
381 Moss Rock Circle
Warrior, Alabama 35180

CERTIFICATE OF SERVICE

I, Paul Joseph Pettus, Appellant/petitioner, do hereby certify that I have on this day served a copy of the foregoing upon the Clerk for The Supreme Court for the United States of America and upon the United States Attorney's Office directed to the Attorneys handling this case, who's names are listed below, by placing the same in the United States Mail, Certified, Return Receipt Requested.

Done this 9th day Of January, 1999, by Paul Joseph Pettus.



Paul Joseph Pettus
Appellant/ Petitioner
381 Moss Rock Circle
Warrior, Alabama 35180

Service upon: The Supreme Court for The United States Of America

Janet Reno, Attorney General of the United States

Caryl P. Privett, U.S. Attorney

Michael V. Rasmussen, Asst. U.S. Atty.

United States Attorney's Office
1800 5th Avenue North
Birmingham, Alabama 35203

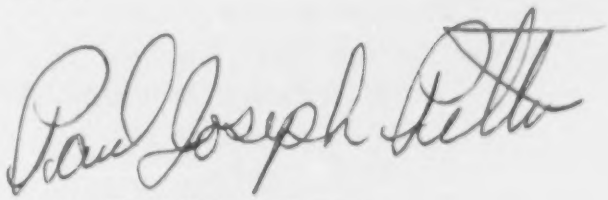
copy: PJP

file

OATH OF TRUTH

I, Paul Joseph Pettus do solemnly avere that this Petition was timely filed with this Court within the 90 day period, was returned for correction and refiled with this Court within the 60 day period.

Done this 15th day of April, 1999.



Paul Joseph Pettus
Appellant/ Petitioner
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Warrior, Alabama 35180
(205) 647-1078

APPENDIX

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
OCT 05 1998
THOMAS K. KAHN
CLERK

No. 97-6048
Non-Argument Calendar

D.C. Docket No. CR-96-TMP-21-S

UNITED STATES OF AMERICA,

Plaintiff/Appellee,

versus

PAUL PETTUS,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Alabama

(October 5, 1998)

Before TJOFLAT, BIRCH and MARCUS, Circuit Judges.

PER CURIAM:

Appelant, convicted of forcibly impending and interfering with FBI agents while engaged in the performance of their official duties, seeks a new trial on the grounds that the trial court abused its discretion (1) in excluding evidence regarding a citizen's arrest and trespass, and (2) in refusing to instruct the jury on trespass.

Neither ground has merit. We therefore affirm.

AFFIRMED.

No Signatures